



PATENT

Customer No.: 22,852

Attorney Docket No.: 2906.0359-00

**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: )  
)  
Patrick R. LANCASTER, III et al. ) Group Art Unit: 3721  
)  
Application No.: 10/767,863 ) Examiner: Tawfik, Sameh  
)  
Filed: January 30, 2004 )  
)  
For: METHOD AND APPARATUS ) Confirmation No.: 2966  
FOR SECURING A LOAD TO A )  
PALLET WITH A ROPED FILM )  
WEB )

**Mail Stop Appeal Brief--Patents**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

**TRANSMITTAL OF APPEAL BRIEF (37 C.F.R. §41.37)**

Transmitted herewith is the APPEAL BRIEF in this application with respect to the  
Notice of Appeal filed on November 28, 2007.

This application is on behalf of

☒ Small Entity ☐ Large Entity

Pursuant to 37 C.F.R. 41.20(b)(2), the fee for filing the Appeal Brief is:

☒ \$255.00 (Small Entity)

☐ \$510.00 (Large Entity)

**TOTAL FEE DUE:**

Appeal Brief Fee \$255.00

Extension Fee (if any) \$0.00

Total Fee Due                      \$255.00

☒ A check for \$255.00 is submitted herewith.

PETITION FOR EXTENSION. If any extension of time is necessary for the filing of this Appeal Brief, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account 06-0916.

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: January 28, 2008

By: Thomas Ho  
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WEB	)	

**Mail Stop Appeal Brief-Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**APPEAL BRIEF UNDER BOARD RULE § 41.37**

In support of the Notice of Appeal filed November 28, 2007, and further to Board Rule 41.37, Appellant presents this brief and encloses herewith a check for the fee of \$255.00 (small entity) required under 37 C.F.R. § 41.20(b)(2).

This Appeal is in response to the rejection of claims 50, 53-55, 119-130, 135-143, 145-149, 151-158, 160-163, 165-171, 173, and 174 in the Office Action mailed May 30, 2007.

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If any additional fees are required or if the enclosed payment is insufficient, Appellant requests that the required fees be charged to Deposit Account 06-0916.

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**I. Real Party in Interest**

Lantech.com, LLC is the real party in interest.

**II. Related Appeals and Interferences**

There are currently no other appeals or interferences, of which Appellant, Appellant's legal representative, or Assignee are aware, that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

### **III. Status of Claims**

Claims 50, 53-55, 119-130, 135-143, 145-149, 151-158, 160-163, 165-171, 173, and 174 are rejected; claims 131-134 and 172 are withdrawn; claims 1-49, 51, 52, and 56-118 have been cancelled; and claims 144, 150, 159, and 164 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 50, 53-55, 119-130, 135-143, 145-149, 151-158, 160-163, 165-171, 173, and 174 are involved in this appeal. A copy of these claims is provided in the attached Claims Appendix.

**IV. Status of Amendments**

No amendments have been filed subsequent to the rejection of claims 50, 53-55, 119-130, 135-143, 145-149, 151-158, 160-163, 165-171, 173, and 174.



### **V. Summary Of Claimed Subject Matter**

The embodiment of the invention described in independent claim 119 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, rolling a portion of the film web into a cable. See Id. at page 18, paragraphs 66-68; page 19, paragraphs 69 and 70; page 30, paragraph 94; page 31, paragraphs 94-96; page 32, paragraphs 96-99; page 33, paragraphs 99 and 100; page 34, paragraph 100; and FIGS. 2B-2D, 4B, and 5A-7D.

The embodiment of the invention described in independent claim 129 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web

from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation, through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, gathering a portion of the film web. See Id. at page 28, paragraph 89; page 29, paragraph 91; page 30, paragraph 94; page 31, paragraph 94; and page 39, paragraph 114.

The embodiment of the invention described in independent claim 141 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second

elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. Moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration includes moving only one of the upstream and downstream guide rollers. See Id. at page 24, paragraphs 80-82; and page 25, paragraph 83. The method further includes, during at least one of the first and second portions of the wrapping cycle, rolling a portion of the film web into a cable. See Id. at page 18, paragraphs 66-68; page 19, paragraphs 69 and 70; page 30, paragraph 94; page 31, paragraphs 94-96; page 32, paragraphs 96-99; page 33, paragraphs 99 and 100; page 34, paragraph 100; and FIGS. 2B-2D, 4B, and 5A-7D:

The embodiment of the invention described in independent claim 142 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream

guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, rolling a portion of the film web into a cable. See Id. at page 18, paragraphs 66-68; page 19, paragraphs 69 and 70; page 30, paragraph 94; page 31, paragraphs 94-96; page 32, paragraphs 96-99; page 33, paragraphs 99 and 100; page 34, paragraph 100; and FIGS. 2B-2D, 4B, and 5A-7D.

The embodiment of the invention described in independent claim 146 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second

elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. Adheringly engaging at least a portion of the film web with at least one of the upstream and downstream guide rollers includes frictionally engaging the portion of the film web with a surface of the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, rolling a portion of the film web into a cable. See Id. at page 18, paragraphs 66-68; page 19, paragraphs 69 and 70; page 30, paragraph 94; page 31, paragraphs 94-96; page 32, paragraphs 96-99; page 33, paragraphs 99 and 100; page 34, paragraph 100; and FIGS. 2B-2D, 4B, and 5A-7D.

The embodiment of the invention described in independent claim 148 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web

from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, rolling a portion of the film web into a cable. See Id. at page 18, paragraphs 66-68; page 19, paragraphs 69 and 70; page 30, paragraph 94; page 31, paragraphs 94-96; page 32, paragraphs 96-99; page 33, paragraphs 99 and 100; page 34, paragraph 100; and FIGS. 2B-2D, 4B, and 5A-7D.

The embodiment of the invention described in independent claim 152 is directed to a method for wrapping a load with a film web during a wrapping cycle. See

Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. Gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers includes frictionally engaging the portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, rolling a portion of the film web into a cable. See Id. at page 18, paragraphs 66-68; page 19, paragraphs 69 and 70; page 30, paragraph 94;

page 31, paragraphs 94-96; page 32, paragraphs 96-99; page 33, paragraphs 99 and 100; page 34, paragraph 100; and FIGS. 2B-2D, 4B, and 5A-7D.

The embodiment of the invention described in independent claim 156 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation, through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. Moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration includes moving only one of the upstream and downstream guide rollers. See Id. at page 24, paragraphs 80-82; and page 25, paragraph 83. The method further includes, during at least one of the first and second portions of the wrapping cycle, gathering a portion of the film web. See Id. at page 28, paragraph 89; page 29, paragraph 91; page 30, paragraph 94; page 31, paragraph 94; and page 39, paragraph 114.



The embodiment of the invention described in independent claim 157 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation, through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller, includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, gathering a portion of the film web. See Id. at page 28, paragraph 89; page 29, paragraph 91; page 30, paragraph 94; page 31, paragraph 94; and page 39, paragraph 114.

The embodiment of the invention described in independent claim 160 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation, through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller, includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. Adheringly engaging at least a portion of the film web with at least one of the upstream and downstream guide rollers includes frictionally engaging the portion of the film web with a surface of the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least

one of the first and second portions of the wrapping cycle, gathering a portion of the film web. See Id. at page 28, paragraph 89; page 29, paragraph 91; page 30, paragraph 94; page 31, paragraph 94; and page 39, paragraph 114.

The embodiment of the invention described in independent claim 162 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation, through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, gathering a

portion of the film web. See Id. at page 28, paragraph 89; page 29, paragraph 91; page 30, paragraph 94; page 31, paragraph 94; and page 39, paragraph 114.

The embodiment of the invention described in independent claim 166 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation, through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. Gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers includes allowing the portion of the film web to frictionally engage the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration

to a non-drive down configuration. See Id. at page 25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, gathering a portion of the film web. See Id. at page 28, paragraph 89; page 29, paragraph 91; page 30, paragraph 94; page 31, paragraph 94; and page 39, paragraph 114.

The embodiment of the invention described in independent claim 170 is directed to a method for wrapping a load with a film web during a wrapping cycle. See Specification, page 19, paragraph no. 71. The method includes dispensing a film web from a film dispenser. See Id. at page 19, paragraph 72. The method also includes providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load. See Id. at page 19, paragraph 71; and page 33, paragraph 100. The method further includes, during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation, through rotation of at least one of an upstream guide roller and a downstream guide roller. See Id. at page 23, paragraph 78; page 24, paragraph 82; page 27, paragraph 87; page 28, paragraph 89; and FIG. 5A. Driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of the upstream and downstream guide rollers, includes frictionally engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers. See Id. at page 22, paragraph 77; and page 28, paragraph 89. The method further includes, during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration. See Id. at page

25, paragraph 83; and page 27, paragraph 87. The method further includes, during at least one of the first and second portions of the wrapping cycle, gathering a portion of the film web. See Id. at page 28, paragraph 89; page 29, paragraph 91; page 30, paragraph 94; page 31, paragraph 94; and page 39, paragraph 114.

**VI. Grounds of Rejection**

A. Claims 50, 53-55, 119-130, 135-143, 145-149, 151-158, 160-163, 165-171, 173, and 174 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,040,359 to Thimon (“Thimon”) in view of U.S Patent No. 4,807,427 in view of Casteel et al. (“Casteel”).

B. Claims 141-143, 145-149, 151-158, 160-163, 165-171, 173, and 174 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of U.S. Patent No. 5,240,198 to Dörfel (“Dörfel”).

## **VII. Arguments**

### **A. The rejection of claims 50, 53-55, 119-128, 139, 141, and 153-155 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claims 50, 53-55, 119-128, 139, 141, and 153-155 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claims 50, 53-55, 119-128, 139, 141, and 153-155 *prima facie* obvious.

Independent claim 119 is directed to a method for wrapping a load with a film web during a wrapping cycle, including, *inter alia*, the step of “driving at least a portion of the film web from a first elevation to a second elevation . . . through rotation of at least one of an upstream guide roller and a downstream guide roller.” On page 2 of the outstanding Office Action, the Examiner asserts that, “Thimon discloses . . . driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation (Figs. 9 and 13; via rods 37 and 38); note that it is inherent the web has to be driven in order to be feed through the machine, with at least one of an upstream guide roll and a downstream guide roll (Fig. 5; via rollers 62, 63, 37, and 38 or other rollers to drive the web).”

Contrary to the Examiner’s assertion, Thimon does not teach or suggest the claimed “driving at least a portion of the film web from a first elevation to a second elevation . . . through rotation of at least one of an upstream guide roller and a downstream guide roller.” Rather, Thimon discloses that “the deviating and vertical-offsetting means 27 comprise at least two rods 37, 38 for returning and guiding the band



of film 5,” and “two return and guide rods 37, 38 . . . having an outer surface capable of permitting the sliding of the band of film,” (emphasis added). Thimon, column 10, lines 40-45; and column 11, lines 21-25. The fact that the film slides on the outer surfaces of rods 37, 38 indicates that rods 37, 38 do not actively engage film 5. Instead, film 5 passively slides down rods 37, 38. Further, rods 37, 38 do not rotate, and as such, cannot drive film 5 through their rotation. Moreover, since rods 37, 38 do not rotate, rods 37, 38 are not rollers, as would be required for Thimon to read on the claim.

Appellant also submits that rollers 58-60, 62, and 63 of Thimon do not drive film 5 through carriage 8, as suggested by the Examiner. Rather, Thimon suggests that it is relative rotation between load 2 and carriage 8 that drives or feeds film 5 through carriage 8, since Thimon discloses that “the first end part of a band of film originating from a reel of film . . . is secured against a vertical face of the load; with the load remaining fixed, the reel of film is displaced around the load and consequently the reel of film is unwound and the load is banded” (emphasis added). Thimon, column 4, lines 54-61. Further, while Thimon discloses that rollers 59, 60 or 62, 63 could operate as a differential-speed two-roller pre-stretching device, the differential-speed aspect suggests that at least one of those rollers will be slower than the other, and will retard the film, rather than drive or feed the film. See Id. at column 13, lines 1-15. Furthermore, rollers 58-60, 62, and 63 do not drive the film from a first elevation to a second elevation, as would be required for Thimon to read on the claim.

Casteel fails to remedy the above-described deficiencies of Thimon. Further, the Examiner does not rely on Casteel for such a purpose. See Office Action, page 3.

Therefore, for at least these reasons, the combination of Thimon and Casteel fails to establish a *prima facie* case of obviousness.

Notwithstanding the above discussion, which is sufficient for the withdrawal of the rejection, the rejection based on Thimon and Casteel is improper for additional reasons. Casteel teaches a stretch wrapping machine including spools 33 that “come together in adjacent overlapping spacing with the film web W being reduced therebetween to the film rope R required.” Casteel, column 3, lines 15-19. If the teachings of Casteel were applied to Thimon, film 5 of Thimon would be gathered into the shape of film rope R of Casteel, rendering Thimon unsuitable for its intended purpose of pleating or curling only lower edge 30 of film 5 to obtain a better package, since the width of film rope R is significantly narrower than the width of film required by Thimon. See Thimon, column 12, lines 44-64; and FIG. 4. The Examiner’s proposed modification would also change the principle of operation of Thimon, since Thimon would lose the ability to deviate or offset film 5 in a downward direction, since spools 33 of Casteel would force the entire width of film 5 upward into the form of film rope R. Thus, since the proposed modification of Thimon with Casteel would render Thimon unsatisfactory for its intended purpose, and would change the principle of operation of Thimon, there would be no suggestion or motivation to make such a modification, and the combination would not have been obvious. See M.P.E.P. 2143.01.

Accordingly, for at least the above reasons, Thimon and Casteel, whether taken alone or in combination, do not teach or suggest the invention as set forth in independent claim 119. Thus, reversal of the Examiner’s rejection of independent claim 119 is requested.

Claims 50, 53-55, 120-128, 139, 141, and 153-155 depend either directly or indirectly from independent claim 119, and therefore are allowable for at least the same reasons that independent claim 119 is allowable. In addition, at least some of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**B. The rejection of claims 129, 130, 135-138, 140, 156, 167-169, 171, 173, and 174 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claims 129, 130, 135-138, 140, 156, 167-169, 171, 173, and 174 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claims 129, 130, 135-138, 140, 156, 167-169, 171, 173, and 174 *prima facie* obvious.

Independent claim 129 is directed to a method for wrapping a load with a film web during a wrapping cycle, including, *inter alia*, the step of “driving at least a portion of the film web from a first elevation to a second elevation . . . through rotation of at least one of an upstream guide roller and a downstream guide roller.” On page 2 of the outstanding Office Action, the Examiner asserts that, “Thimon discloses . . . driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation (Figs. 9 and 13; via rods 37 and 38); note that it is inherent the web has to be driven in order to be feed through the machine, with at least one of an upstream guide roll and a downstream guide roll (Fig. 5; via rollers 62, 63, 37, and 38 or other rollers to drive the web).”

Contrary to the Examiner's assertion, Thimon does not teach or suggest "driving at least a portion of the film web from a first elevation to a second elevation . . . through rotation of at least one of an upstream guide roller and a downstream guide roller." Rather, Thimon discloses that "the deviating and vertical-offsetting means 27 comprise at least two rods 37, 38 for returning and guiding the band of film 5," and "two return and guide rods 37, 38 . . . having an outer surface capable of permitting the sliding of the band of film," (emphasis added). Thimon, column 10, lines 40-45; and column 11, lines 21-25. The fact that the film slides on the outer surfaces of rods 37, 38 indicates that rods 37, 38 do not actively engage film 5. Instead, film 5 passively slides down rods 37, 38. Further, rods 37, 38 do not rotate, and as such, cannot drive film 5 through their rotation. Moreover, since rods 37, 38 do not rotate, rods 37, 38 are not rollers, as would be required for Thimon to read on the claim.

Appellant also submits that rollers 58-60, 62, and 63 of Thimon do not drive film 5 through carriage 8, as suggested by the Examiner. Rather, Thimon suggests that it is relative rotation between load 2 and carriage 8 that drives or feeds film 5 through carriage 8, since Thimon discloses that "the first end part of a band of film originating from a reel of film . . . is secured against a vertical face of the load; with the load remaining fixed, the reel of film is displaced around the load and consequently the reel of film is unwound and the load is banded" (emphasis added). Thimon, column 4, lines 54-61. Further, while Thimon discloses that rollers 59, 60 or 62, 63 could operate as a differential-speed two-roller pre-stretching device, the differential-speed aspect suggests that at least one of those rollers will be slower than the other, and will retard the film, rather than drive or feed the film. See Id. at column 13, lines 1-15.

Furthermore, rollers 58-60, 62, and 63 do not drive the film from a first elevation to a second elevation, as would be required for Thimon to read on the claim.

Casteel fails to remedy the above-described deficiencies of Thimon. Further, the Examiner does not rely on Casteel for such a purpose. See Office Action, page 3. Therefore, for at least these reasons, the combination of Thimon and Casteel fails to establish a *prima facie* case of obviousness.

Notwithstanding the above discussion, which is sufficient for the withdrawal of the rejection, the rejection based on Thimon and Casteel is improper for additional reasons. Casteel teaches a stretch wrapping machine including spools 33 that “come together in adjacent overlapping spacing with the film web W being reduced therebetween to the film rope R required.” Casteel, column 3, lines 15-19. If the teachings of Casteel were applied to Thimon, film 5 of Thimon would be gathered into the shape of film rope R of Casteel, rendering Thimon unsuitable for its intended purpose of pleating or curling only lower edge 30 of film 5 to obtain a better package, since the width of film rope R is significantly narrower than the width of film required by Thimon. See Thimon, column 12, lines 44-64; and FIG. 4. The Examiner’s proposed modification would also change the principle of operation of Thimon, since Thimon would lose the ability to deviate or offset film 5 in a downward direction, since spools 33 of Casteel would force the entire width of film 5 upward into the form of film rope R. Thus, since the proposed modification of Thimon with Casteel would render Thimon unsatisfactory for its intended purpose, and would change the principle of operation of Thimon, there would be no suggestion or motivation to make such a modification, and the combination would not have been obvious. See M.P.E.P. 2143.01.

Accordingly, for at least the above reasons, Thimon and Casteel, whether taken alone or in combination, do not teach or suggest the invention as set forth in independent claim 129. Thus, reversal of the Examiner's rejection of independent claim 129 is requested.

Claims 130, 135-138, 140, 156, 167-169, 171, 173, and 174 depend either directly or indirectly from independent claim 129, and therefore are allowable for at least the same reasons that independent claim 129 is allowable. In addition, at least some of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**C. The rejection of claims 142, 143, 145, and 147 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claims 142, 143, 145, and 147 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claims 142, 143, 145, and 147 *prima facie* obvious.

Initially, it should be noted that claims 142, 143, 145, and 147 depend either directly or indirectly from independent claim 119, and therefore are allowable for at least the same reasons that independent claim 119 is allowable.

In addition, claim 142 recites, *inter alia*, "wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers." On page 5 of the Office Action, the Examiner contends that "Thimon nor Casteel disclose[s] the step of

adheringly engaging [a] portion of the film web with one of the guide rollers, coating at least one of the upstream and downstream guide rollers, nor frictionally engaging [a] portion of the film web with a surface of the at least one of the guide rollers . . . . the examiner takes an official notice . . . Therefore, it would have been obvious . . . to have coated Thimon's guiding rollers, as a matter of engineering design choice." Appellant disagrees with the Examiner's contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction (reduce adherence) between film 5 and rods 37 and 38, with the alleged Official Notice teaching of using a coating to increase friction (increase adherence), would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include an adherence-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

Claims 143, 145, and 147 depend directly from claim 142, and therefore are allowable for at least the same reasons that claim 142 is allowable. In addition, at least some of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**D. The rejection of claim 146 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claim 146 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claim 146 *prima facie* obvious.

Initially, it should be noted that claim 146 depends from independent claim 119, and therefore is allowable for at least the same reasons that independent claim 119 is allowable.

In addition, claim 146 recites, *inter alia*, “frictionally engaging the portion of the film web with a surface of the at least one of the upstream and downstream guide rollers.” On page 5 of the Office Action, the Examiner contends that “Thimon nor Casteel disclose[s] the step of adheringly engaging [a] portion of the film web with one of the guide rollers, coating at least one of the upstream and downstream guide rollers, nor frictionally engaging [a] portion of the film web with a surface of the at least one of the guide rollers . . . the examiner takes an official notice . . . Therefore, it would have been obvious . . . to have coated Thimon’s guiding rollers, as a matter of engineering design choice.” Appellant disagrees with the Examiner’s contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction between film 5 and rods 37 and 38, with the alleged Official Notice teaching of



using a coating to increase friction, would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

**E. The rejection of claims 148, 149, and 151 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claims 148, 149, and 151 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claims 148, 149, and 151 *prima facie* obvious.

Initially, it should be noted that claims 148, 149, and 151 depend either directly or indirectly from independent claim 119, and therefore are allowable for at least the same reasons that independent claim 119 is allowable.

In addition, claim 148 recites, *inter alia*, “wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 5 of the Office Action, the Examiner contends that “Thimon nor Casteel disclose[s] the step of adheringly engaging [a] portion of the film web with one of the guide rollers, coating at

least one of the upstream and downstream guide rollers, nor frictionally engaging [a] portion of the film web with a surface of the at least one of the guide rollers . . . . the examiner takes an official notice . . . Therefore, it would have been obvious . . . to have coated Thimon's guiding rollers, as a matter of engineering design choice." Appellant disagrees with the Examiner's contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction (reduce gripping) between film 5 and rods 37 and 38, with the alleged Official Notice teaching of using a coating to increase friction (increase gripping), would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a grip-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

Claims 149 and 151 depend directly from claim 148, and therefore are allowable for at least the same reasons that claim 148 is allowable. In addition, one or both of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**F. The rejection of claim 152 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claim 152 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claim 152 *prima facie* obvious.

Initially, it should be noted that claim 152 depends from independent claim 119, and therefore is allowable for at least the same reasons that independent claim 119 is allowable.

In addition, claim 152 recites, *inter alia*, “frictionally engaging the portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 5 of the Office Action, the Examiner contends that “Thimon nor Casteel disclose[s] the step of adheringly engaging [a] portion of the film web with one of the guide rollers, coating at least one of the upstream and downstream guide rollers, nor frictionally engaging [a] portion of the film web with a surface of the at least one of the guide rollers . . . . the examiner takes an official notice . . . Therefore, it would have been obvious . . . to have coated Thimon’s guiding rollers, as a matter of engineering design choice.” Appellant disagrees with the Examiner’s contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction between film 5 and rods 37 and 38, with the alleged Official Notice teaching of using a coating to increase friction, would go against the express teaching of Thimon.

Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

**G. The rejection of claims 157, 158, and 161 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claims 157, 158, and 161 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claims 157, 158, and 161 *prima facie* obvious.

Initially, it should be noted that claims 157, 158, and 161 depend either directly or indirectly from independent claim 129, and therefore are allowable for at least the same reasons that independent claim 129 is allowable.

In addition, claim 157 recites, *inter alia*, “wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 5 of the Office Action, the Examiner contends that “Thimon nor Casteel disclose[s] the step of adheringly engaging [a] portion of the film web with one of the guide rollers, coating at least one of the upstream and downstream guide rollers, nor frictionally engaging [a]

portion of the film web with a surface of the at least one of the guide rollers . . . . the examiner takes an official notice . . . Therefore, it would have been obvious . . . to have coated Thimon's guiding rollers, as a matter of engineering design choice." Appellant disagrees with the Examiner's contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction (reduce adherence) between film 5 and rods 37 and 38, with the alleged Official Notice teaching of using a coating to increase friction (increase adherence), would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include an adherence-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

Claims 158 and 161 depend directly from claim 157, and therefore are allowable for at least the same reasons that claim 157 is allowable. In addition, one or both of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**H. The rejection of claim 160 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claim 160 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claim 160 *prima facie* obvious.

Initially, it should be noted that claim 160 depends from independent claim 129, and therefore is allowable for at least the same reasons that independent claim 129 is allowable.

In addition, claim 160 recites, *inter alia*, “frictionally engaging the portion of the film web with a surface of the at least one of the upstream and downstream guide rollers.” On page 5 of the Office Action, the Examiner contends that “Thimon nor Casteel disclose[s] the step of adheringly engaging [a] portion of the film web with one of the guide rollers, coating at least one of the upstream and downstream guide rollers, nor frictionally engaging [a] portion of the film web with a surface of the at least one of the guide rollers . . . . the examiner takes an official notice . . . . Therefore, it would have been obvious . . . to have coated Thimon’s guiding rollers, as a matter of engineering design choice.” Appellant disagrees with the Examiner’s contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction between film 5 and rods 37 and 38, with the alleged Official Notice teaching of using a coating to increase friction, would go against the express teaching of Thimon.

Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

**I. The rejection of claims 162, 163, and 165 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claims 162, 163, and 165 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claims 162, 163, and 165 *prima facie* obvious.

Initially, it should be noted that claims 162, 163, and 165 depend either directly or indirectly from independent claim 129, and therefore are allowable for at least the same reasons that independent claim 129 is allowable.

In addition, claim 162 recites, *inter alia*, “wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 5 of the Office Action, the Examiner contends that “Thimon nor Casteel disclose[s] the step of adheringly engaging [a] portion of the film web with one of the guide rollers, coating at least one of the upstream and downstream guide rollers, nor frictionally engaging [a]

portion of the film web with a surface of the at least one of the guide rollers . . . . the examiner takes an official notice . . . Therefore, it would have been obvious . . . to have coated Thimon's guiding rollers, as a matter of engineering design choice." Appellant disagrees with the Examiner's contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction (reduce gripping) between film 5 and rods 37 and 38, with the alleged Official Notice teaching of using a coating to increase friction (increase gripping), would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a grip-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

Claims 163 and 165 depend directly from claim 162, and therefore are allowable for at least the same reasons that claim 162 is allowable. In addition, one or both of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.



**J. The rejection of claim 166 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claim 166 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claim 166 *prima facie* obvious.

Initially, it should be noted that claim 166 depends from independent claim 129, and therefore is allowable for at least the same reasons that independent claim 129 is allowable.

In addition, claim 166 recites, *inter alia*, “allowing the portion of the film web to frictionally engage the at least one of the upstream and downstream guide rollers.” On page 5 of the Office Action, the Examiner contends that “Thimon nor Casteel disclose[s] the step of adheringly engaging [a] portion of the film web with one of the guide rollers, coating at least one of the upstream and downstream guide rollers, nor frictionally engaging [a] portion of the film web with a surface of the at least one of the guide rollers . . . . the examiner takes an official notice . . . Therefore, it would have been obvious . . . to have coated Thimon’s guiding rollers, as a matter of engineering design choice.” Appellant disagrees with the Examiner’s contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction between film 5 and rods 37 and 38, with the alleged Official Notice teaching of using a coating to increase friction, would go against the express teaching of Thimon.

Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

**K. The rejection of claim 170 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel should be withdrawn**

The Examiner rejected claim 170 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel. The Board should reverse the rejection because neither Thimon or Casteel, whether taken alone or in combination, renders claim 170 *prima facie* obvious.

Initially, it should be noted that claim 170 depends directly from independent claim 129, and therefore is allowable for at least the same reasons that independent claim 129 is allowable.

In addition, claim 170 recites, *inter alia*, “wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes frictionally engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 5 of the Office Action, the Examiner contends that “Thimon nor Casteel disclose[s] the step of adheringly engaging [a] portion of the film web with one of the guide rollers, coating at least one of the upstream and downstream guide rollers, nor frictionally engaging [a]

portion of the film web with a surface of the at least one of the guide rollers . . . . the examiner takes an official notice . . . Therefore, it would have been obvious . . . to have coated Thimon's guiding rollers, as a matter of engineering design choice." Appellant disagrees with the Examiner's contention. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5, to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction between film 5 and rods 37 and 38, with the alleged Official Notice teaching of using a coating to increase friction, would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel in the manner suggested by the Examiner. Reversal of the rejection is requested.

**L. The rejection of claims 141 and 153-155 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claims 141 and 153-155 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel. Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 119. Further, Dörfel is

not cited for such a purpose. See Office Action, page 6. Thus, since claims 141 and 153-155 depend either directly or indirectly from independent claim 119, then claims 141 and 153-155 are allowable at least for the same reasons that independent claim 119 is allowable. Accordingly, Appellant requests reversal of the Examiner's rejection.

**M. The rejection of claims 142, 143, 145, and 147 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claims 142, 143, 145, and 147 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 119. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claims 142, 143, 145, and 147 depend either directly or indirectly from independent claim 119, then claims 142, 143, 145, and 147 are allowable at least for the same reasons that independent claim 119 is allowable.

In addition, claim 142 recites, *inter alia*, "wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers." On page 6 of the Office Action, the Examiner asserts that "Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . .

Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel's rollers by having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction." Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction (reduce adherence) between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction (increase adherence), would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

Claims 143, 145, and 147 depend directly from claim 142, and therefore are allowable for at least the same reasons that claim 142 is allowable. In addition, at least some of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**N. The rejection of claim 146 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claim 146 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 119. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claim 146 depends from independent claim 119, then claim 146 is allowable at least for the same reasons that independent claim 119 is allowable.

In addition, claim 146 recites, *inter alia*, “frictionally engaging the portion of the film web with a surface of the at least one of the upstream and downstream guide rollers.” On page 6 of the Office Action, the Examiner asserts that “Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . . Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel’s rollers by having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction.” Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize

friction between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction, would go against the express teaching of Thimon.

Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2.

See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

**O. The rejection of claims 148, 149, and 151 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claims 148, 149, and 151 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 119. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claims 148, 149, and 151 depend either directly or indirectly from independent claim 119, then claims 148, 149, and 151 are allowable at least for the same reasons that independent claim 119 is allowable.

In addition, claim 148 recites, *inter alia*, “wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at

least one of the upstream and downstream guide rollers.” On page 6 of the Office Action, the Examiner asserts that “Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . . Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel’s rollers by having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction.” Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction (reduce gripping) between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction (increase gripping), would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a grip-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

Claims 149 and 151 depend directly from claim 148, and therefore are allowable for at least the same reasons that claim 148 is allowable. In addition, one or both of



these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**P. The rejection of claim 152 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claim 152 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 119. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claim 152 depends from independent claim 119, then claim 152 is allowable at least for the same reasons that independent claim 119 is allowable.

In addition, claim 152 recites, *inter alia*, “frictionally engaging the portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 6 of the Office Action, the Examiner asserts that “Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . . Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel’s rollers by having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction.” Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film

5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction, would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

**Q. The rejection of claims 156, 167-169, 171, 173, and 174 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claims 156, 167-169, 171, 173, and 174 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel. Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 129. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claims 156, 167-169, 171, 173, and 174 depend either directly or indirectly from independent claim 129, then claims 156, 167-169, 171, 173, and 174 are allowable at least for the same reasons that independent claim 129 is allowable. Accordingly, Appellant requests reversal of the Examiner's rejection.

**R. The rejection of claims 157, 158, and 161 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claims 157, 158, and 161 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 129. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claims 157, 158, and 161 depend either directly or indirectly from independent claim 129, then claims 157, 158, and 161 are allowable at least for the same reasons that independent claim 129 is allowable.

In addition, claim 157 recites, *inter alia*, “wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 6 of the Office Action, the Examiner asserts that “Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . . Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel’s rollers by having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction.” Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from

polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction (reduce adherence) between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction (increase adherence), would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

Claims 158 and 161 depend directly from claim 157, and therefore are allowable for at least the same reasons that claim 157 is allowable. In addition, one or both of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**S. The rejection of claim 160 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claim 160 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 129. Further, Dörfel is

not cited for such a purpose. See Office Action, page 6. Thus, since claim 160 depends from independent claim 129, then claim 160 is allowable at least for the same reasons that independent claim 129 is allowable.

In addition, claim 160 recites, *inter alia*, “frictionally engaging the portion of the film web with a surface of the at least one of the upstream and downstream guide rollers.” On page 6 of the Office Action, the Examiner asserts that “Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . . Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel’s rollers by having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction.” Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction, would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

**T. The rejection of claims 162, 163, and 165 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claims 162, 163, and 165 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 129. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claims 162, 163, and 165 depend either directly or indirectly from independent claim 129, then claims 162, 163, and 165 are allowable at least for the same reasons that independent claim 129 is allowable.

In addition, claim 162 recites, *inter alia*, “wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 6 of the Office Action, the Examiner asserts that “Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . . Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel’s rollers by

having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction.” Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize friction (reduce gripping) between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction (increase gripping), would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a grip-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2. See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

Claims 163 and 165 depend directly from claim 162, and therefore are allowable for at least the same reasons that claim 162 is allowable. In addition, one or both of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

**U. The rejection of claim 166 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claim 166 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 129. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claim 166 depends from independent claim 129, then claim 166 is allowable at least for the same reasons that independent claim 129 is allowable.

In addition, claim 166 recites, *inter alia*, “allowing the portion of the film web to frictionally engage the at least one of the upstream and downstream guide rollers.” On page 6 of the Office Action, the Examiner asserts that “Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . . Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel’s rollers by having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction.” Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to minimize



friction between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction, would go against the express teaching of Thimon.

Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2.

See MPEP 2143.01.

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

**V. The rejection of claim 170 under 35 U.S.C. §103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel, should be withdrawn**

Appellant respectfully traverses the rejection of claim 170 under 35 U.S.C. § 103(a) as being unpatentable over Thimon in view of Casteel, and further in view of Dörfel.

Initially, Appellant submits that Dörfel fails to remedy the deficiencies of Thimon and Casteel described above with respect to independent claim 129. Further, Dörfel is not cited for such a purpose. See Office Action, page 6. Thus, since claim 170 depends directly from independent claim 129, then claim 170 is allowable at least for the same reasons that independent claim 129 is allowable.

In addition, claim 170 recites, *inter alia*, “wherein driving at least a portion of the film web . . . through rotation of at least one of an upstream guide roller and a downstream guide roller includes frictionally engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers.” On page 6 of the

Office Action, the Examiner asserts that “Thimon nor Casteel disclose the step of adheringly engaging portion of the film web with one of the guide rollers, coating at least one of the guide rollers, nor frictionally engaging . . . the film web with a surface of the at least one of the guide rollers. However, Dörfel discloses a . . . coated roller . . . . Therefore, it would have been obvious . . . to have modified Thimon in view of Casteel’s rollers by having a coated rollers, as suggested by Dörfel, in order to increase the coefficient of friction.” Appellant respectfully disagrees. Thimon provides holes 47 on rods 37, 38 to discharge compressed air during banding, and makes rods 37, 38 from polished slippery metal of a small diameter to limit contact between rods 37, 38 and film 5 to minimize friction between rods 37 and 38 and film 5 (emphasis added). See Thimon, column 11, lines 25-39. Thus, modifying Thimon, which aims to reduce friction between film 5 and rods 37 and 38, with the teachings of Dörfel, which uses a coating to increase friction, would go against the express teaching of Thimon. Moreover, modifying rods 37 and 38 of Thimon to include a friction-enhancing coating would render Thimon unsatisfactory for its intended purpose, and would change its principle of operation, since film 5 could no longer slide past rods 37, 38 to reach load 2

For all of these reasons, it would not have been obvious to modify Thimon and Casteel with Dörfel in the manner suggested by the Examiner. Thus, reconsideration of the rejection is requested.

**W. Rejoinder of Withdrawn Claims 131-134 and 172**

Appellant also requests that withdrawn claims 131-134 and 172 be rejoined with the elected claims in this application. Claims 131-134 and 172 all depend either directly or indirectly from one of independent claims 119 and 129, and thus, are allowable for at

least the same reasons that independent claims 119 and 129 are allowable. In addition, at least some of these withdrawn dependent claims recites unique combinations that are neither taught nor suggested by the cited art, and therefore each is also separately patentable.

**VIII. Conclusion**

For the reasons given above, claims 50, 53-55, and 119-174 are allowable, and reversal of the Examiner's rejection is respectfully requested.

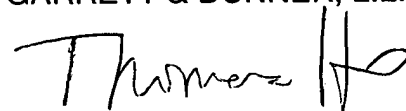
To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: January 28, 2008

By: \_\_\_\_\_



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**IX. Claims Appendix**

1.-49. (Canceled).

50. (Previously Presented) The method of claim 119, wherein wrapping the film web around the load includes securing the load to a pallet supporting the load with the film web and cable.

51. (Canceled).

52. (Canceled).

53. (Previously Presented) The method of claim 119, wherein at least one of the upstream and downstream guide rollers is coated.

54. (Previously Presented) The method of claim 119, wherein rolling a portion of the film web includes engaging an edge portion of the film web with a cable rolling roper.

55. (Previously Presented) The method of claim 54, wherein engaging the edge portion of the film web includes engaging the edge portion with a circumferential groove in a roller forming the cable rolling roper.

56.-118. (Canceled).

119. (Previously Presented) A method for wrapping a load with a film web during a wrapping cycle, comprising:

- dispensing a film web from a film dispenser;
- providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load; and
- during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller;
- during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration; and
- during at least one of the first and second portions of the wrapping cycle, rolling a portion of the film web into a cable.

120. (Previously Presented) The method of claim 119, wherein driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation includes driving at least a portion of the film web to an elevation below a top of the pallet supporting the load.

121. (Previously Presented) The method of claim 119, wherein rolling a portion of the film web into a cable includes selectively engaging an edge portion of the film web

with at least one roping element to roll the edge portion of the film web into a rolled cable of film.

122. (Previously Presented) The method of claim 121, wherein selectively engaging an edge portion of the film web with the at least one roping element includes engaging the edge portion of the film web with a roping element adjacent to and downstream of the upstream guide roller.

123. (Previously Presented) The method of claim 121, wherein selectively engaging an edge portion of the film web with the at least one roping element includes engaging the edge portion of the film web with a first roping element adjacent to and downstream of the upstream guide roller and a second roping element adjacent to and downstream of the downstream guide roller.

124. (Previously Presented) The method of claim 119, wherein moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration includes changing an angle at which at least one of the upstream and downstream guide rollers is tilted from a first angle to a second angle, different from the first angle.

125. (Previously Presented) The method of claim 119, wherein moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration includes disengaging the at least one of the upstream

and downstream guide rollers from the film web as it extends in a film path between the dispenser and the load.

126. (Previously Presented) The method of claim 119, wherein a bottom portion of the load is wrapped during the first portion of the wrapping cycle.

127. (Previously Presented) The method of claim 126, wherein rolling a portion of the film web into a cable occurs during the first portion of the wrapping cycle.

128. (Previously Presented) The method of claim 119, wherein a portion of the load other than the bottom portion is wrapped during the second portion of the wrapping cycle.

129. (Previously Presented) A method for wrapping a load with a film web during a wrapping cycle, comprising:

dispensing a film web from a film dispenser;

providing relative rotation between the load and the dispenser during the wrapping cycle to wrap the film web around the load; and

during a first portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation, through rotation of at least one of an upstream guide roller and a downstream guide roller; and



during a second portion of the wrapping cycle, moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration; and

during at least one of the first and second portions of the wrapping cycle, gathering a portion of the film web.

130. (Previously Presented) The method of claim 129, wherein driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation includes driving at least a portion of the film web to an elevation below a top of the pallet supporting the load.

131. (Withdrawn) The method of claim 129, further comprising selectively engaging an edge portion of the film web with at least one roping element to rope the edge portion of the film web.

132. (Withdrawn) The method of claim 131, wherein selectively engaging an edge portion of the film web with at least one roping element includes rolling the edge portion of the film web into a rolled cable of film.

133. (Withdrawn) The method of claim 131, wherein selectively engaging an edge portion of the film web with the at least one roping element includes engaging the edge portion of the film web with a roping element adjacent to and downstream of the upstream guide roller.

134. (Withdrawn) The method of claim 131, wherein selectively engaging an edge portion of the film web with the at least one roping element includes engaging the edge portion of the film web with a first roping element adjacent to and downstream of the upstream guide roller and a second roping element adjacent to and downstream of the downstream guide roller.

135. (Previously Presented) The method of claim 129, wherein moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration includes changing an angle at which at least one of the upstream and downstream guide rollers is tilted from a first angle to a second angle, different from the first angle.

136. (Previously Presented) The method of claim 129, wherein moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration includes disengaging the at least one of the upstream and downstream guide rollers from the film web as it extends in a film path between the dispenser and the load.

137. (Previously Presented) The method of claim 129, wherein a bottom portion of the load is wrapped during the first portion of the wrapping cycle.

138. (Previously Presented) The method of claim 129, wherein a portion of the load other than the bottom portion is wrapped during the second portion of the wrapping cycle.

139. (Previously Presented) The method of claim 119, wherein the upstream guide roller and the downstream guide roller are tilted in opposite directions when in the film drive down configuration.

140. (Previously Presented) The method of claim 129, wherein the upstream guide roller and the downstream guide roller are tilted in opposite directions when in the film drive down configuration.

141. (Previously Presented) The method of claim 119, wherein moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration includes moving only one of the upstream and downstream guide rollers.

142. (Previously Presented) The method of claim 119, wherein driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers.

143. (Previously Presented) The method of claim 142, wherein adheringly engaging at least a portion of the film web with at least one of the upstream and downstream guide rollers includes engaging the portion of the film web with a coated surface of the at least one of the upstream and downstream guide rollers.

144. (Previously Presented) The method of claim 143, wherein engaging the portion of the film web includes fixing the portion of the film web relative to the coated surface of the at least one of the upstream and downstream guide rollers for a portion of a rotation of the at least one of the upstream and downstream guide rollers.

145. (Previously Presented) The method of claim 142, wherein adheringly engaging at least a portion of the film web with at least one of the upstream and downstream guide rollers includes allowing the portion of the film web to stick to a coated surface of the at least one of the upstream and downstream guide rollers.

146. (Previously Presented) The method of claim 142, wherein adheringly engaging at least a portion of the film web with at least one of the upstream and downstream guide rollers includes frictionally engaging the portion of the film web with a surface of the at least one of the upstream and downstream guide rollers.

147. (Previously Presented) The method of claim 142, wherein adheringly engaging at least a portion of the film web with at least one of the upstream and

downstream guide rollers prevents slippage between the portion of the film web and the at least one of the upstream and downstream guide rollers.

148. (Previously Presented) The method of claim 119, wherein driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers.

149. (Previously Presented) The method of claim 148, wherein gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers includes engaging the film web with a coated surface of the at least one of the upstream and downstream guide rollers.

150. (Previously Presented) The method of claim 149, wherein gripping at least a portion of the film web includes fixing at least a portion of the film web relative to the coated surface of the at least one of the upstream and downstream guide rollers for a portion of a rotation of the at least one of the upstream and downstream guide rollers.

151. (Previously Presented) The method of claim 148, wherein gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers prevents slippage between the portion of the film web and the at least one of the upstream and downstream guide rollers.

152. (Previously Presented) The method of claim 148, wherein gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers includes frictionally engaging the portion of the film web with the at least one of the upstream and downstream guide rollers.

153. (Previously Presented) The method of claim 119, further comprising, during a third portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of the at least one of the upstream and the downstream guide rollers.

154. (Previously Presented) The method of claim 153, further comprising rolling a portion of the film web into a cable during the third portion of the wrapping cycle.

155. (Previously Presented) The method of claim 154, wherein the bottom of the load is wrapped during the first and third portions of the wrapping cycle.

156. (Previously Presented) The method of claim 129, wherein moving at least one of the upstream and downstream guide rollers from a film drive down configuration to a non-drive down configuration includes moving only one of the upstream and downstream guide rollers.

157. (Previously Presented) The method of claim 129, wherein driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller, includes adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers.

158. (Previously Presented) The method of claim 157, wherein adheringly engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers includes engaging the portion of the film web with a coated surface of the at least one of the upstream and downstream guide rollers.

159. (Previously Presented) The method of claim 158, wherein adheringly engaging at least a portion of the film web includes fixing the portion of the film web relative to the coated surface of the at least one of the upstream and downstream guide rollers for a portion of a rotation of the at least one of the upstream and downstream guide rollers.

160. (Previously Presented) The method of claim 157, wherein adheringly engaging at least a portion of the film web with at least one of the upstream and downstream guide rollers includes frictionally engaging the portion of the film web with a surface of the at least one of the upstream and downstream guide rollers.

161. (Previously Presented) The method of claim 157, wherein adheringly engaging at least a portion of the film web with at least one of the upstream and downstream guide rollers prevents slippage between the portion of the film web and the at least one of the upstream and downstream guide rollers.

162. (Previously Presented) The method of claim 129, wherein driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of an upstream guide roller and a downstream guide roller includes gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers.

163. (Previously Presented) The method of claim 162, wherein gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers includes engaging the film web with a coated surface of the at least one of the upstream and downstream guide rollers.

164. (Previously Presented) The method of claim 163, wherein gripping at least a portion of the film web include fixing the portion of the film web relative to the coated surface of the at least one of the upstream and downstream guide rollers for a portion of a rotation of the at least one of the upstream and downstream guide rollers.

165. (Previously Presented) The method of claim 162, wherein gripping at least a portion of the film web with the at least one of the upstream and downstream guide



rollers prevents slippage between the portion of the film web and the at least one of the upstream and downstream guide rollers.

166. (Previously Presented) The method of claim 162, wherein gripping at least a portion of the film web with the at least one of the upstream and downstream guide rollers includes allowing the portion of the film web to frictionally engage the at least one of the upstream and downstream guide rollers.

167. (Previously Presented) The method of claim 129, further comprising, during a third portion of the wrapping cycle, driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of the at least one of the upstream and the downstream guide rollers.

168. (Previously Presented) The method of claim 167, further comprising rolling a portion of the film web into a cable during the third portion of the wrapping cycle.

169. (Previously Presented) The method of claim 168, wherein the bottom of the load is wrapped during the first and third portions of the wrapping cycle.

170. (Previously Presented) The method of claim 129, wherein driving at least a portion of the film web from a first elevation to a second elevation lower than the first elevation through rotation of at least one of the upstream and downstream guide rollers,

includes frictionally engaging at least a portion of the film web with the at least one of the upstream and downstream guide rollers.

171. (Previously Presented) The method of claim 129, further comprising forming the gathered portion of the film web into a rolled cable.

172. (Withdrawn) The method of claim 129, further comprising forming the gathered portion of the film web into a rope.

173. (Previously Presented) The method of claim 129, wherein gathering a portion of the film web includes redirecting a path of the gathered portion of the film web.

174. (Previously Presented) The method of claim 129, wherein gathering a portion of the film web includes at least one of compacting the portion of the film web, causing the portion of the film web to converge, diverting the portion of the film web, and accumulating the portion of the film web.

**X. Evidence Appendix**

There is no evidence being relied upon by Appellant.

**XI. Related Proceedings Appendix**

There are no related proceeding decisions.